IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

and
THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION Nos. 4896 & 14273 OF 2003.

WRIT PETITION NO : 4896 of 2003

Between:

1. Palacherla Bhaskara Rao S/o Jalamanna

65 years, R/o Konthamuru, Rajahmundry Rural Mandal,

East Godavari District.

2. Cherukuri Rama Mohana Rao S/o Seetharamaiah

45 years, R/o Konthamuru, Rajahmundry Rural Mandal,

East Godavari District.

3. Balina Annavadram S/o Kondalarao

45 years, R/o Konthamuru, Rajahmundry Rural Mandal,

East Godavari District.

4. Kothuri Suryachakravarthi S/o Veeraraghavulu

50 years, R/o Konthamuru, Rajahmundry Rural Mandal,

East Godavari District.

5. Kantipudi Ramarao S/o Venkataratnam

63 years, R/o Konthamuru, Rajahmundry Rural Mandal,

East Godavari District.

..... PETITIONERS.

AND

1. The Govt. of A.P. represented by its Secretary
Medical, Health and Family Welfare Department
Secretariat, Hyderabad.
2. The Govt. of A.P. represented by its Secretary
Environment, Forest, Science & Technology Dept.
Secretariat, Hyderabad.
3. The Govt. of A.P., Pollution Control Board
represented by its Member Secretary, Hyderabad.
4. The Joint Chief Environmental Engineer
A.P. Pollution Control Board, Zonal Office
Visakhapatnam, 6th Floor, Udyog Bhavan Complex
Siripuram Junction, Visakhapatnam.
5. The Revenue Divisional Officer, Rajahmundry Division
Rajahmundry, East Godavari District.
6. Kolamuru Gram Panchayat, represented by its Executive
Officer, Rajahmundry Rural Mandal, Rajahmundry,
East Godavari District.
7. The Municipal Corporation of Rajahmundry
represented by its Commissioner
Rajahmundry, East Godavari District.
8. Rajahmundry Stone Crushers Association
represented by its Secretary, Rajahmundry
East Godavari District.
9. Vasavi Granite Crushers, represented by its
Proprietor Manda Surya Prakash Reddy, Konthamuru
Rajahmundry Rural Mandal, East Godavari District.

10. S.S. Industries, represented by its Proprietor,

M.Ashok Kumar, Konthamuru, Rajahmundry Rural Mandal

East Godavari District.

11. Venkataramana Industries, represented by its Proprietor

G.Anand Kumar, Konthamuru, Rajahmundry Rural Mandal

East Godavari District.

12. Sathi Veera Raghava Reddy, Granites, represented by its

Proprietor, S.Naga Ratnam, Konthamuru

Rajahmundry Rural Mandal, East Godavari District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus or any other appropriate writ and direct Respondents 1 to 4 and the other State Authorities to prevent installation/operation/shifting of Stone Crushing Unit Industries into the land in Sy.No.379 and 380 of Konthamuru village, Rajahmundry Rural Mandal, East Godavari District and also direct the Respondents to implement the orders of the 3rd and 4th respondents dated: 03.05.2002 and direct the closure of the identified Stone Crushing Industries Units, as per the said orders and also evolve a definite policy for preventing the established operations of Stone Crushing Units, with reference to the distance between such units and the residential areas in the Corporation limits or the limits of the adjoining Gram Panchayat and take action against the existing Stone Crushing Units to abide by such policy in order to prevent Sound and Noise Pollution to the residents of the locality.

Counsel for the Petitioner: Mr.VEDULA VENKATARAMANA

Counsel for the Respondent Nos.1,2 and 5: G. P. for

Irrigation and C.A.D.

Counsel for Respondent No.3 : Mr.S.V.Bhatt, SC for APPCB.

Counsel for Respondent Nos.4 & 6 to 12: None appeared.

WRIT PETITION NO : 14273 of 2003

Between:

Rajahmundry Stone Crushers Association rep.by its Secretary M. Ram Prakash,

S/o. Bagyam, age 43 years, R/o. Rajahmundry.

..... PETITIONER

AND

1. The Government of Andhra Pradesh, rep.by its Secretary, Environment and Forest, Secretariat, Hyderabad.
2. The Sub-Collector, Rajahmundry, East Godavari District.
3. The Andhra Pradesh Paper Mills, Rajahmundry, East Godavari District.

.....RESPONDENTS.

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or writ one in the nature of Writ of Mandamus declaring the action of the respondents in not allotting the land to the members of the petitioner's association for shifting their crusher units and trying to dispossess as arbitrary, illegal, unjust and unconstitutional and consequently direct the respondents to allot the land for shifting of the crusher unit .

Counsel for the Petitioner: SMT.P.VIJAYA LAKSHMI

Counsel for Respondent No.1: Mr.S.V.Bhatt, SC for APPCB.

Counsel for Respondent No.2: G.P. for Irrigation & CAD.

Counsel for Respondent No.3: Mr.Vedula Srinivas.

The Court made the following :

ORAL COMMON ORDER:

(per The Honourable Sri Devinder Gupta, the Chief Justice)

The complaint made by the writ petitioners in W.P.No. 4896 of 2003 is the inaction on the part of respondents 1 to 4 and other State authorities in not preventing the installation/operation/shifting of Stone Crushing Unit industries into the land in Sy.Nos.379 and 380 of Konthamuru village, Rajahmundry Rural Mandal, East Godavari District, and consequential direction is sought to respondents to implement the orders of Respondents 3 and 4 and direct closure of identified Stone Crushing Industry Units. After W.P.No.4896 of 2003 was filed and when notices were issued, Rajahmundry Stone Crushers Association also filed Writ Petition No. 14273 of 2003

seeking to declare the action on the part of the respondents therein in not allotting the land to the members of the petitioner-association for shifting their crusher units and consequently sought direction to the respondents to allot the land for shifting of Stone Crushing Units.

Both Writ Petitions being inter-connected were taken-up together for being heard. We have heard the learned counsel for parties, and, gone through the record.

Sri S.Suresh Kumar, Sub-Collector, Rajahmundry, East Godavari District has filed the affidavit, and, on behalf of the Andhra Pradesh Pollution Control Board, Sri R.M.Gonela, Member Secretary has filed his affidavit.

Both the affidavits state that in view of the complaints made about the air pollution caused by the Stone Crushing Units located at Rajamundry and Konthamuru, the Board has directed closure of 10 such units by its order dated: 30.3.2001. On 19.5.2001, closure orders for 13 units were issued since they had failed to comply with the directions issued by the Board. Aggrieved by this action, Stone Crushing Units submitted representations to the Zonal Office of the Board at Visakhapatnam stating that they had decided to stop their activity at the present location and were proposing to establish units at new location so as to conform to the guidelines issued by the Board. Without going into further details, we may refer to the orders of Zonal Office, A.P.Pollution Control Board, by which, 27 units were ordered to be closed with effect from 31.1.2002. But, the Government extended the time for three months to enable the units to shift and relocate their operations elsewhere. Time was further extended and both the affidavits state that final extension to shift was given up to 15.7.2003. Thereafter power supply was also disconnected on 27.8.2003 and ever since, none of the stone crushing units are operating in the area. There is no manner of doubt that since stone crushing units have stopped their operation, and, they cannot restart their activity without obtaining consent for establishment from the Board, no cause survives in Writ Petition No. 4896 of 2003, which, by passage of time is rendered infructuous and is disposed of as such.

As regards the writ petition filed by the Rajahmundry Stone Crushers Association, the directions prayed for cannot be issued in exercise of writ jurisdiction in the absence of any obligation on the part of the respondents to allot land to the members of the Association for establishing their crushing units. Members of petitioner-association are not precluded from purchasing land and establishing their units

thereupon, in case, they would like to establish their units. But, the same can be done only after obtaining necessary consent for establishment from the Board. But, the direction as prayed for cannot be issued in W.P.No. 14273 of 2003, which stands disposed of as such. No costs.

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DEVINDER GUPTA, C.J.

7.10.2004.

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C.V.RAMULU, J.

VR.

To

1. The Secretary to Govt. of A.P.

Medical, Health and Family Welfare Department

Secretariat, Hyderabad.

2. The Secretary to Govt. of A.P.

Environment, Forest, Science & Technology Dept.

Secretariat, Hyderabad.

3. The Member Secretary, A.P. Pollution Control Board

Hyderabad.

4. The Joint Chief Environmental Engineer

A.P. Pollution Control Board, Zonal Office

Visakhapatnam, 6th Floor, Udyog Bhavan Complex

Siripuram Junction, Visakhapatnam.

5. The Revenue Divisional Officer, Rajahmundry Division

Rajahmundry, East Godavari District.

6. The Executive Officer, Kolamuru Gram Panchayat, Rajahmundry Rural Mandal, Rajahmundry,

East Godavari District.

7. The Commissioner, Municipal Corporation of Rajahmundry,

Rajahmundry, East Godavari District.

8.The Sub-Collector, Rajahmundry, East Godavari District.

9. Two CCs to Govt. Pleader for Irrigation & Command Area

Development, High Court Buildings, Hyderabad (OUT).

10. The Andhra Pradesh Paper Mills, Rajahmundry, East Godavari District.

11. Two CD copies.